

APPENDIX "C"

Peter Hanano - Christian v. White discovery letter -- Petitioner

From: Mark Barrett <barrettlaw@sbcglobal.net>
To: <warren_nakamura@hid.uscourts.gov>, Peter Hanano
<peter.hanano@co.maui.hi.us>
Date: 12/17/2007 5:36:49 PM
Subject: Christian v. White discovery letter -- Petitioner

Mark Barrett, Attorney
P. O. Box 896
Norman, Oklahoma 73070
405-364-8367; 405-366-8329 (fax)
December 17, 2007

Honorable Leslie Kobayashi
United States District Court
for the District of Hawaii
300 Ala Moana Boulevard
Honolulu, Hawaii 96813

Letter Brief Regarding Discovery
Christian v. White
CIV-0400743-DAE-LEK

Dear Judge Kobayashi:

In response to the Court's minute order of December 10, 2007, the defense states:

I. Discovery Produced to Date

A. Prosecution

Defense counsel has read the prosecutor's list of items sent for testing and/or review. The list appears to be correct.

B. Defense

The defense has provided to the prosecution the name of the person who allegedly had knowledge of an additional Burkhardt confession.

II. Discovery Agreed to Be Produced

A. Prosecution

1. Viewing Evidence, Obtaining Copies

Local counsel Keith Shigetomi will contact the prosecutor to arrange a mutually agreeable date to view the evidence. Mr. Shigetomi has stated he believes a mutually agreeable date could be found within the next thirty days.

2. Information Regarding James Burkhart

Defense counsel is sending this week a subpoena to the Maui Police Department for any further information about confessions of James Burkhart or other information inculcating James Burkhart.

B. Defense

1. Audio Tapes

Jack Mitchell has completed work on the audio tapes and has prepared a report. That report is being sent to the prosecutor this week.

2. DNA evidence

The DNA expert, Brian Wraxall, recently has completed a course of chemotherapy. His cancer treatment caused him to be unable to conduct testing as expeditiously as he hoped. The prosecution and defense have agreed that it would be appropriate for Mr. Wraxall to have until January 21, 2008 to complete the DNA work.

3. Witness and Exhibit List

So far, the new evidence to list is the report and tape enhancement of Jack Mitchell of Albuquerque, New Mexico.

Much evidence relied upon has already been mentioned in earlier filings. This previous information includes the witness statements about confessions of James Burkhart, the Crimestoppers reports regarding James Burkhart, the discussions of James Burkhart that occurred at the crime scene and that were mentioned in trial testimony, the 911 tape, the Lisa Kimmey tape, the sketch of the perpetrator that was being circulated, the testimony of Gas Express employees, and the testimonies of those who reported the stabbing incident to police.

The defense proposes that a complete witnesses and exhibit list be provided thirty days prior to evidentiary hearing.

III. Discovery issues remaining

The defense is not aware of discovery issues, other than the setting of appropriate dates, which have yet to be ruled upon by the court.

However, the defense does hope to conduct one additional forensic procedure.

The defense proposes sending the videotapes for attempted enhancement. Mr. Mitchell, the audio expert, also is trained in enhancing videotapes. The defense proposes that the videotapes be sent from Mr. Shigetomi to Mr. Mitchell during the first week of January (when Mr. Mitchell returns to New Mexico) and that Mr. Mitchell's report on the videotapes be due on February 1, 2008.

Mr. Christian's family will provide funds so that the Respondent is reimbursed for shipping and copying costs.

I hope this addresses all issues of concern to the Court. I will provide readily any additional information the Court may request.

Sincerely,
/s/ Mark Barrett